



7020-02

INTERNATIONAL TRADE COMMISSION
CERTAIN SLEEP-DISORDERED BREATHING TREATMENT SYSTEMS AND
COMPONENTS THEREOF

Investigation No. 337-TA-879

COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN AMENDED MOTION TO TERMINATE THE
REMAINING RESPONDENTS BASED ON A CONSENT ORDER; ISSUANCE OF
CONSENT ORDER AND TERMINATION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 11) of the presiding administrative law judge granting an amended motion to terminate the remaining respondents based on a consent order. The Commission has issued the subject consent order; the investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street,

S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 1, 2013, based on a complaint filed on March 28, 2013, and supplemented on April 19, 2013, on behalf of ResMed Corporation of San Diego, California; ResMed Incorporated of San Diego, California; and ResMed Limited of Australia. 78 *Fed. Reg.* 25475 (May 1, 2013). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale within the United States after importation of certain sleep-disordered breathing treatment systems and components thereof by reason of infringement of one or more of claims 1, 2, 4, 5, 17 and 28 of U.S. Patent No. 6,216,691; claims 1 and 20 of U.S. Patent No. 6,935,337; claim 15 of U.S. Patent No. 7,159,587; claims 1, 5, 6, 11, 12, 18–20, 35 and 36 of U.S. Patent No. 7,487,772; claims 1–7 of U.S. Patent No. 7,614,398; claims 59, 60, 63, 72–75 of U.S. Patent No. 7,743,767; and claims 17, 21–24, 29, 32–37 of U.S. Patent No. 7,997,267. The Commission's notice of investigation named as respondents Apex Medical Corporation of New Taipei City, Taiwan and Apex Medical USA Corporation of Brea, California (collectively, "Apex") and Medical Depot Inc., d/b/a Drive Medical Design & Manufacturing of Port Washington, New York. Medical Depot Inc. has previously been terminated from the investigation on the basis of a consent order.

On July 2, 2013, Apex filed a motion to terminate the investigation based on a consent order, and on July 5, 2013, filed an amended motion based on a consent order stipulation and proposed consent order. On July 16, 2013, Complainants filed a response in opposition, and the the Commission investigative attorney filed a response in support of the motion. On July 17, 2013, the administrative law judge issued Order No. 11, granting the motion to terminate the investigation and staying the procedural schedule. The administrative law judge found termination to be in the public interest. That part of Order No. 11 which terminates the investigation constitutes an initial determination.

There were no petitions for review. Having considered the ID and proposed consent order and the relevant portions of the record, the Commission has determined not to review the subject ID. The Commission has issued the consent order, and the investigation is terminated.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

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